

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

**Airman Basic NATHANIEL E. DUNCAN
United States Air Force**

ACM 35169

1 October 2003

Sentence adjudged 11 February 2002 by GCM convened at Bolling Air Force Base, District of Columbia. Military Judge: Thomas G. Crossan Jr. (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 24 months, forfeiture of all pay and allowances.

Appellate Counsel for Appellant: Colonel Beverly B. Knott, Major Terry L. McElyea, Major Kyle R. Jacobson, and Major Karen L. Hecker.

Appellate Counsel for the United States: Colonel LeEllen Coacher and Lieutenant Colonel Lance B. Sigmon.

Before

PRATT, ORR, W.E., and GENT
Appellate Military Judges

PER CURIAM:

Pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982), the appellant alleges that his sentence was inappropriately severe. We disagree and affirm. This Court may only affirm those findings and sentences we find are correct in law and fact and determine, on the basis of the entire record, should be approved. Article 66(c), UCMJ, 10 U.S.C. § 866(c). In determining sentence appropriateness, we must exercise our judicial powers to assure that justice is done and that the accused receives the punishment he deserves. Performing this function does not authorize this Court to grant clemency. *United States v. Healy*, 26 M.J. 394, 395-96 (C.M.A. 1988). The primary manner in which we discharge this responsibility is to give individualized consideration to an appellant on the basis of the nature and seriousness of the offenses and the character of

appellant. *United States v. Snelling*, 14 M.J. 267, 268 (C.M.A. 1982). Applying this standard, we find that the appellant's sentence is not inappropriately severe.

The approved findings and sentence are correct in law and fact, and no error prejudicial to the substantial rights of the appellant occurred. Article 66(c), UCMJ; *United States v. Reed*, 54 M.J. 37, 41 (2000). Accordingly, the approved findings and sentence are

AFFIRMED.

OFFICIAL

HEATHER D. LABE
Clerk of Court